IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 14617 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 14492 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 14495 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 14621 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 14618 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 14615 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 14620 of 2020

==========

VIPULBHAI NARVATBHAI RATHOD
Versus
ELECTION OFFICER

==========

Appearance:
MR PADMRAJ K JADEJA(2095) for the Petitioner(s) No. 1
MR VC VAGHELA(1720) for the Respondent(s) No. 2
MR MEET THAKKAR, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI**

Date : 23/12/2020

COMMON ORAL ORDER

1. In all these petitions, as the issue raised by the concerned petitioner is similar, learned advocate appearing for the parties jointly requested that all these petitions be heard and decided together.

2. For the sake of convenience, the facts narrated in Special Civil Application No.14617 of 2020 are considered:

2.1. This petition is filed under Article 226 of the

Constitution of India in which the petitioner has prayed for the following main relief/s:

> *"(A) The Hon'ble Court may be pleased to issue writ of certiorari or writ in the nature of certiorari any other appropriate writ, order or direction, quashing and setting aside the impugned order dated 03.10.2020 passed by the respondent No.1 at Annexure-A to the petition and be pleased to direct that the name of the respondent No.2 be deleted from the voters list of Savali Taluka Constituency for the elections of Vadodara District Cooperative Milk Producers' Union Limited.*
>
> *(B) Pending final hearing and disposal of this petition, the Hon'ble Court be pleased to stay the execution, operation and implementation of the impugned order dated 03.10.2020 passed by the respondent No.1 at Annexure-A to the petition and be pleased to restrain the respondent No.2 from participating in the elections of Vadodara District Cooperative Milk Producers' Union Limited.*

3. Heard learned advocate Mr. Padmraj K. Jadeja for the petitioners, learned Assistant Government Pleader Mr. Meet Thakkar for the respondent No.1 and learned advocate Mr. V.C.Vaghela for the respondent No.2.

4. Learned advocate for the petitioner submitted that petitioner is a delegate of Sheer Na Muvada Doodh

Utpadak Sahakari Mandali Ltd. The society in which the petitioner is a delegate is a member society of Vadodara District Cooperative Milk Producers' Union Ltd. (the Union). The said Union is a specified society within the meaning of Section 74C of the Gujarat Cooperative Societies Act, 1961 (hereinafter referred to as 'the Act of 1961'). The elections of the Union are to be held as per Chapter XI of the Act of 1961 and the Rules framed thereunder. It is submitted that Manipur Doodh Utpadak Sahakari Mandli is also a member society of the Union. It is pointed out from the record that election programme of the Union was declared and thereafter voters' list was published. In the said voters' list, name of the respondent No.2 was included. When the petitioner came to know about the inclusion of the name of the respondent No.2, he filed objections on 01.10.2020 in which it was pointed out to the respondent No.1 that respondent No.2 is a member of the Managing Committee of Amrapur Doodh Utpadak Sahkari Mandli Ltd. However, he is not the resident of that particular village where his society has area of operation and therefore by virtue of the bye-laws of the society, he is not eligible as delegate and therefore his name is wrongly included in the voters' list. It is submitted that the respondent No.1, by way of impugned order dated 03.10.2020, rejected the objections raised by the petitioner and therefore petitioner has filed the present petition.

5. Learned advocate Mr. Jadeja, at the outset, referred Rules 6 to 8 of the Gujarat Specified Cooperative Societies (Election to Committees) Rules, 1982. It is submitted that as per the provisions

contained in the said Rules, the respondent No.1 was required to make summary inquiry. However, without making summary inquiry, the objections raised by the petitioner came to be rejected by the respondent No.1. Learned advocate Mr. Jadeja has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of ***Election Commission of India v. Ashok Kumar,*** reported in ***2000(8) SCC 216,*** and more particularly, referred paragraph 32 thereof. It is submitted that in view of the aforesaid decision, the action taken on orders issued by the Election Commission are open to judicial review on the well settled parameters such as case of *mala fide* or arbitrary exercise of powers being made out or the statutory body being shown to have acted in breach of law.

6. Learned advocate Mr. Jadeja has thereafter referred the decision rendered by this Court in the case of ***Mandropur (Fatehpur) Juth Seva Sahkari Mandali Ltd. v. State of Gujarat, reported in (2017) 2 GLR 1459*** and more particularly the observations made by this Court in para 5.3, 5.4, 8 and 9 of the said decision. After referring to the said decision, it is contended that summary inquiry was a part of function of the election officer, which is to be discharged under the Rules for the purpose of preparation of list of voters'. However, in the present case, respondent No.1 has failed to make any summary inquiry and therefore the impugned order passed by the respondent be quashed and set aside and the name of respondent No.2 be removed from the voters' list.

7. Learned advocate has also placed reliance upon the decision rendered by this Court in the case of Shri Pratapgadh Seva Sahkari Mandali Ltd. v. Director, Agriculture Marketing and Rural Finance, reported in 2020 JX (Guj) 450 and more particularly the observations made in para 7.7 to 7.13.

8. Learned advocate Mr. Jadeja, therefore, urged that this Court may permit the concerned respondent to cast his vote in the election, election process may be proceeded further as per the election programme, however, the result may not be declared.

9. On the other hand, learned advocate Mr. Vaghela appearing for the respondent No.2 has opposed this petition and mainly submitted that though the present petition under Article 226 of the Constitution of India is maintainable, inclusion and/or exclusion of the name of the voters' list cannot be termed as an extraordinary circumstance warranting interference by this Court under Article 226 of the Constitution of India. It is submitted that if the petitioner is aggrieved by the order passed by the respondent No.1, it is always open for him to challenge the election as per the provisions contained in Section 145U of the Act of 1961 before the concerned Tribunal.

10. At this stage, learned advocate Mr. Vaghela has also referred the provisions contained in Section 22(2-A) of the Act of 1961. It is submitted that indirectly petitioner is challenging the membership of the petitioner in a primary society and the qualification of the petitioner as a member of a primary society. The

grievance of the petitioner is that though respondent No.2 is not resident of a particular village, his name has been included as a member of a primary society. If the petitioner is aggrieved by the membership of the respondent No.2 of primary society as per Section 22(2-A) of the Act of 1961, appeal is to be filed befofre the Appellate Authority.

11. Learned advocate Mr. V.C.Vaghela has thereafter contended that when the election process is already commenced, this Court may not interfere with the election process and if the petitioner has any grievance, he can raise the same after the election is over before the concerned Tribunal as per the provisions of Section 145U of the Act of 1961.

12. He has placed reliance upon the following decisions in support of his contentions:

(1) Daheda Group Seva Sahakari Mandli Ltd. v. R.D.Rohit, Autho Officer and Cooperative Officer (Marketing), reported in ***2006(1) GCD 211.***

(2) Shaji K. Joseph v. V Viswanath, reported in ***2016(4) SCC 429.***

(3) Patel Talshabhai Purabhai v. Authorised Officer and Auditor Grade-I, rendered in Special Civil Application NO.2302 of 2011 and allied matters.

(4) S S S J S (M M) S D U Sanstha v. State of Maharashtra, reported in ***(2001) 8 SCC 509.***

(5) Shrutbandhu H Popat v. State of Gujarat, reported in ***2008(1) GLH 575.***

(6) ***Mandropur (Fatehpur) Juth Seva Sahkari Mandali Limited, rendered in Letters Patent Appeal No.541 of 2016.***

13. Learned Assistant Government Pleader has supported the submissions canvassed by the learned advocate for respondent No.2.

14. Having heard learned advocates appearing for the parties and having gone through the material placed on record, it has emerged that the only grievance raised by the petitioner in the present petition is that though respondent No.2 is not a resident of a particular village, he was enrolled as a member of a particular co-operative, which is a member of the Union. Therefore, the name of respondent No.2 is wrongly included in the voters' list prepared by respondent No.1 Election officer. It is the grievance of the petitioner that though the petitioner has raised an objection, his objection was rejected by respondent No.1. Thus, it is clear that the petitioner is challenging the inclusion of name of respondent No.2 in the voters' list.

15. At the outset, it is required to be noted that from the order passed by respondent No.1, it is clear that though the petitioner has raised the objection, in which, it was pointed out that respondent No.2 is not the resident of a particular village, his name is included in the voters' list. However, the petitioner has failed to produce any evidence in support of his objection. The Election Officer has specifically observed that the petitioner came to know about the aforesaid aspect when he received the telephonic

instructions and when he inquired from the other persons. Thus, in absence of any material produced by the petitioner before respondent No.1, his objection was not entertained by respondent No.1. Thus, it is revealed that the petitioner has failed to produce any material before respondent No.1 Election Officer.

16. At this stage, this Court would like to refer the provisions contained in Sections 22(2) and 22(2-A) of the Act of 1961, which read as under:

> ***"22. Person who may become member.***–
>
> *xxx xxx xxx*
>
> *[(2) Every person seeking admission as a member of a society, if duly qualified for membership of such society under the provisions of this Act, the-rules and the bye-laws of the society, may make an application to the society for membership. The society shall take decision on the application and shall communicate the decision within a period of three months from the date of the receipt of the application.]*
>
> *22(2-A) Any person aggrieved by the decision of a society under sub-sec. (2), may prefer an appeal to the Registrar within sixty days of the date of communication of the decision and such appeal shall be filed by the Registrar within a period of sixty days.*

17. Thus, from the aforesaid provisions, it is clear that if the person is aggrieved by the decision taken by the concerned authority about the membership of particular society, the same can be challenged by filing an appeal before the Appellate Authority. In the present case, no such appeal is filed by the petitioner or any other person.

18. In the case of ***Mundropur (Fatehpur) Juth Seva Sahkari Mandali Limited Vs. State of Gujarat(Supra)***, upon which reliance is placed by the learned advocate for the petitioner, this Court has observed in Paragraph-8 that whether inquiry undertaken in a particular case is summary or not or within the ambit of powers of the authorised officer or not is a question of fact to be ascertained in light of the peculiar facts and aspects of each case. It has to be judged from case to case whether in light of the attendant subject facts, the inquiry undertaken by the authorised officer is summary or not. Ultimately, the said petition was dismissed on the ground of alternative remedy.

It is required to be noted that the above decision was challenged by filing Letters Patent Appeal No.541 of 2016. The Division Bench of this Court has also dismissed the said appeal and confirmed the order passed by the learned Single Judge. Therefore, this Court is of the view that the above decisions would not render any assistance to the petitioner.

19. The Honourable Supreme Court in the case of ***Election Commission of India Vs. Ashok Kumar (supra)***, upon which, reliance is placed by the learned advocate for the petitioner, has observed in Paragraph-32 as under:

"32. For convenience sake we would now generally sum up our conclusions by partly restating what

the two Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove:-

1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.

2) Any decision sought and rendered will not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.

4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the Court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the Court.

5) The Court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of Article 329(b) but brought to it during the pendency of election proceedings. The Court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to

be taken to see that there is no attempt to utilise the courts indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the Court would act with reluctance and shall not act except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material."

20. In the case of ***Shri Pratapgarh Seva Sahakari Mandali Limited Vs. Director, Agricultural Marketing and Rural Finance (Supra)***, upon which, reliance has been placed by the learned advocate for the petitioner, this Court has observed that "Not only that after ascertaining the facts from the contemporaneous record produced by the petitioner Society, the Authorized Officer has reached to a conclusion that there is some interpolation in the agenda book as also the Resolution book...". Thus, in the said case, necessary record was produced before the authorised officer. In the present case, no such evidence was produced by the petitioner before respondent No.1. At this stage, it is also required to be noted that in the said case, this Court did not interfere with the election process and the petition filed under Article 226 of the Constitution of India challenging the order of authorised officer excluding the names of the Members of the Managing Committee of the concerned petitioner Society was not entertained as there was alternative remedy available to the concerned petitioner. Thus, this decision, upon which, reliance is placed by the learned advocate for the petitioner would not render any assistance to him.

21. In the case of ***Daheda Group Seva sahakari Mandli***

Limited Vs. R.D. Rohit, Autho Officer and Co operative officer (Marketing) (supra), the Full Bench of this Court observed in Paragraph-33 as under:

> *"33. In view of the above discussion, we answer the Reference as under: i. A person whose name is not included in the voters' list can avail benefit of provisions of Rule 28 of the Rules by filing Election Petition. ii. As the authority under Rule 28 has wide power to cancel, confirm and amend the election and to direct to hold fresh election in case the election is set aside, remedy under Rule 28 is an efficacious remedy. iii. Even though a petition under Article 226 of the Constitution of India is maintainable though alternative remedy is available, the powers are to be exercised in case of extraordinary or special circumstances such as where the order is ultra vires or nullity and/or ex facie without jurisdiction. The exclusion or inclusion of names in the voters' list cannot be termed as extraordinary circumstances warranting interference by this Court under Article 226 of the Constitution of India and such questions are to be decided in an Election Petition under Rule 28 of the Rules."*

22. In the case of ***Patel Talshabhai Purabhai & Ors Vs. Authorised Officer and Auditor Grade-I (supra)***, the Division Bench of this Court has observed in Paragraphs-11.2 and 12 as under:

> *"11.2 The contention of the petitioners that alternative remedy under Rule 28 is neither appropriate nor expedient on account of the adjudicating authorities being nominees of the Government and not bound by any period of limitation for concluding the proceedings before them has to be stated to be rejected. There cannot be a presumption of bias against any adjudicating authority or quasi-judicial forum only because of the fact that they are appointed by the Government. And the provisions of Rule 28 clearly indicate the sense of urgency underlying the process of enquiry and decision. The various*

decisions, many of which are referred hereinabove, on the issues related to inclusion or exclusion of names in the voters' list would clearly control and guide the authorities in deciding election disputes. Even then, if any party were aggrieved by an illegal order after taking recourse to the alternative remedy or by delay defeating the ends of justice, the extraordinary jurisdiction of this Court could be invoked in appropriate cases. On the other hand, if this Court were to sit in appeal over every decision of the authorized/election officer resulting into inclusion or exclusion of names in the preliminary, provisional or final lists of voters, the process and the time-table of election would certainly be affected. It must be noted that the time-table of election programme is virtually fixed by the provisions of Rules 5 to 8 prescribing timelimits for every stage of the process. Rule 8 (2) ordains that the final list shall be prepared at least 30 days before the date fixed for nomination of candidates for the election. Any intervention by the High Court, after hearing the parties and due adjudication, having the effect of altering the final voters' list would certainly not leave the minimum period of 30 days which must intervene between preparation of final lists and nomination of candidates for the election. Thus, any order resulting into inclusion or exclusion of names in the final voters' list would necessarily violate the provisions of Rule 8 (2). Therefore, it may be inexpedient and improper for this Court to exercise its discretion and power under Article 226 of the Constitution by carving out exceptions on the basis of facts of each case. Besides that, as it happened in most of the cases presently before this Court, the important facts related to eligibility or ineligibility of a person to be in the voters' list are not undisputed. Therefore, this Court would be required to indulge in the exercise of ascertaining the facts before directing inclusion or exclusion of any name in the voters' list. Such elaborate adjudication of facts and legal issues springing therefrom would necessarily either impede the process of election or impose an amended final voters' list at short notice for the candidates or deprive the interested and eligible persons of the opportunity

of being a candidate. In cases where principles of natural justice are alleged to have been violated by the authorized officer in making the impugned order, denial of opportunity of being heard as well as the prejudice caused thereby are also matters in controversy and raise questions of disputed facts. As noted at the outset, polling at the elections in question here is scheduled to take place on 18.03.2011 and 30.03.2011 and voting cannot be legally ordered to be postponed till full-fledged adjudication of all the issues arising in the petitions.

12. In view of the above analysis of factual and legal aspects of the disputes related to the election of APMC, it would be appropriate and in the interest of justice that the Court follows the general rule of non-interference during the course of election, as far as inclusion or exclusion of names in the voters' lists of APMCs are concerned. Therefore, all the petitions along with the civil application are dismissed on the ground of availability of efficacious alternative remedy and inexpediency of interference by this Court in the exercise of its extraordinary writ jurisdiction; with the clarification that disposal of the petitions being not on merits of the factual and other legal contentions, the petitioners' recourse to alternative remedy shall not be affected. In the facts and circumstances of the cases, there is no order as to costs."

23. In the case of ***SSJS(MM) SDU Sanstha Vs. State of Maharashtra (supra)***, the Honourable Supreme Court has observed in Paragraph-11 as under:

"11. In the aforesaid case, the Court held that a writ petition under Art. 226 of the Constitution should not be rejected on account of an alternative remedy by way of election petition where, firstly, the challenge is not a ground under the Act or Rules for filing an election petition and, secondly, where the validity of a rule is challenged being ultra vires and invalid. It is true that a tribunal being a creature of an Act or the Rules has a limited jurisdiction and it

is not open to a tribunal to decide the validity of the Act and the Rules. But, that is not the case here and, therefore, the decision in the case of Bar Council of India V/s. Surjeet Singh (supra) is of no help to the case of the appellant. In the case of Ramchandra Ganpat Shinde V/s. State of Maharashtra (supra), the parties to a writ petition obtained a collusive order by applying fraud on the Court and such an order was made basis of the election. In that context, it was held that so long as the order of the High Court continues, the tribunal would be bound by that order of the High Court and, therefore, the writ petition was maintainable and the same cannot be thrown out on the ground of an alternative remedy. Again, that is not the case of the appellant and, therefore, the same is distinguishable. In Shreewant Kumar Choudhary V/s. Baidyanath Panjiar (supra), it was held that it was not open to the tribunal to go behind the entry in an electoral roll. This was in the context of the provisions of Representation of People Act, 1950 and 1951. It may be borne in mind that there is a distinction between the scheme of the provisions of the Representation of People Act, 1950 and the Representation of People Act, 1951. The Representation of People Act, 1950 provides for the delimitation of constituencies and allocation of seats for purposes of election to the House of the People and the Legislatures of States and preparation of the electoral roll, whereas, Representation of People Act, 1951 provides for conduct of election. Under Section 100 of the Representation of People Act, 1951 one of the grounds amongst other is, an election can be challenged where there is non-compliance of the provisions of the Constitution or of the said Act and the rules or orders made thereunder - meaning thereby that breach of the Representation of People Act, 1950 cannot be called in question in an election petition filed under 1951 Act. In that view of the matter, the decision replied upon by the appellant is distinguishable."

24. In the case of ***Shrutbandhu H. Popat Vs. State of Gujarat (supra)***, this Court has observed in Paragraph-12 as under:

"12. While examining any challenge to the voters' list, the Election Tribunal will have the jurisdiction to examine only those questions which the election officer had the authority to examine. The next question, therefore, would be whether the election officer has any jurisdiction or authority to go behind the licences granted by the APMC or its licence sub-committee. An analysis of the scheme of the relevant provisions of the APMC Act and the Rules does indicate that the Election Officer or the Election Tribunal are not vested with any jurisdiction to go behind the general licences for traders issued by the APMC or its authorised sub-committee and that the matters pertaining to grant, renewal, refusal, suspension and cancellation of licence are governed exclusively by the provisions of Section 27 of the Act read with Rule 56. Such disputes can only be decided by the APMC and finally by the Director/State Government under Section 27 read with Rule 56. Hence, if APMC grants licence on the eve of elections, very little time will be available to any person intending to challenge the grant of licence on the ground that the licence has been obtained through a wilful misrepresentation or fraud or that the licensee has been convicted of any offence under the Act or even in case of renewal of licence that the licensee has committed a breach of any terms and conditions or restrictions imposed by the licence. Rule 56 of the APMC Rules provides that any person desiring to obtain a licence to do business as a trader or a general commission agent in agricultural produce in any market area or part thereof has to make a written application in such form as the APMC may determine. Thus all the information as required by the form will have to be furnished by the applicant along with the fees prescribed by the market committee. On receipt of such application, the market committee is expected to make necessary inquiries which would also mean that as per sub-rule (3) of Rule 56, the APMC or its licensing committee has to form an opinion that the applicant is not insolvent, that the applicant's operations in the market area are likely to further efficient working of the market and that the operations of the applicant are not

likely to impede the smooth working of the market under the control of the APMC. The APMC or its licensing sub-committee having powers delegated to it under Section 25 is thus not to grant licences merely on applications being made and the prescribed fees of Rs.100 or maximum Rs.200 being paid by the applicant. When such licences are granted in hundreds even after commencement of the election process upon declaration of the date of elections, it will be impossible for any authority to verify before finalization of the voters list for the ensuing elections all the claims and counter claims about the genuineness of each applicant's so-called desire to carry on his business or about the factual aspect whether persons included in the list of voters are really carrying on trading activities in the agricultural commodities concerned in the APMC area.

At this stage, we may also record the submission of the learned Addl. Advocate General that the State Government is not averse to a harmonious construction of the provisions of the Act and the Rules being adopted in such a manner that persons who are granted licences after the date of declaration of the elections are not to be included in the voters list. This stand is also consistent with the stand adopted by the State Government as reflected in para 5 of the order dated 27.2.2007 in Special Civil Application No.5029 of 2007, which reads as under:-

"5. Mr Nanavati, learned AGP submitted that with a view to see that there may not be any artificial majority in election in larger public interest, the instructions were issued not to grant fresh licence."

Considering the time frames provided for in Section 27 and Rule 56, when a person makes an application under the said provisions for general licence for traders, the APMC or its licensing committee would be expected to take some time in making genuine scrutiny of the application and if there are a large number of such applications, the APMC would naturally take about a month's time to make such scrutiny. If the APMC has granted or renewed a licence and another person is aggrieved by such grant or renewal of licence, his remedy is

to move the market committee under subsection (3) of Section 27 to cancel the licence on any of the grounds indicated in the said sub-section. The market committee will then give reasonable opportunity to the parties and then take a decision in the matter. In case the APMC accepts the representation for cancellation, then the person in whose favour licence was issued may approach the Director of Agricultural Marketing and Rural Finance under sub-section (4) of Section 27 and then the Director would have to give a reasonable opportunity of hearing and decide whether to suspend or cancel any licence granted or renewed by the APMC or its delegate licensing sub-committee.

If the APMC refuses to grant or renew a licence, the aggrieved applicant has his remedy under sub-section (5) of Section 27 to move the Director within a period of one month from the date of refusal.

In either case, the Director would thereafter be expected to take at least about two months to decide because the Director of Agricultural Marketing and Rural Finance is in charge of the entire administrative machinery supervising the implementation of the APMC Act and the Rules in respect of as many as 182 APMCs in the entire State where business worth thousands of crores is being carried on in various agricultural commodities. Hence, the time gap between the date of grant/renewal or refusal of general licence for traders under Section 27(1) read with Rule 56(1) and the date when the APMC has to send the list of voters to the Election Officer under sub-rule (1) of Rule 7 would have to be a period of at least 4 to 6 months, if disputes about grant, renewal or refusal of licence have to be decided by the competent authority before preparation of the voters list."

25. Keeping in view the aforesaid decisions rendered by the Honourable Supreme Court as well as this Court, if the facts of the present case as discussed hereinabove are examined, this Court is of the view

that though the petition is maintainable under Article 226 of the Constitution of India, in spite of the alternative remedy is available to the concerned petitioners, powers are to be exercised in case of extraordinary or special circumstances such as, whether the order is ultravires, nullity and/or ex-facie without jurisdiction. Exclusion or inclusion of the names in the voters' list does not warrant interference by this Court under Article 226 of the Constitution of India and such questions are to be decided in an election petition. Here, the petitioner is having alternative remedy under Section 145U of the Act of 1961 and, therefore, these petitions are not entertained and rejected accordingly. However, if the petitioner is aggrieved by the result of the election, he can approach the competent Election Tribunal by raising an election dispute as contemplated under Section 145U of the Act of 1961. If the election petition is filed, it shall be considered by the competent authority independently and uninfluenced by the findings recorded by this Court in the present case. Notice is discharged, in each case.

(VIPUL M. PANCHOLI, J)

SRILATHA